



United States Mission to the OSCE

Statement on Responding to Anti-Semitic and Hate-Motivated Crimes

As drafted for delivery by Rabbi David Zwiebel
to the Cordoba Conference on Anti-Semitism
and on Other Forms of Intolerance
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Thank you Mr. Moderator.

Last year, on 22 April 2004, the OSCE Permanent Council issued a formal Decision, number 607, entitled "Combating Anti-Semitism." The very first decision the participating states committed themselves to was to "strive to ensure that their legal systems foster a safe environment free from anti-Semitic harassment, violence or discrimination in all fields of life."

Indeed, the role of a state's legal system cannot be overemphasized in the battle against anti-Semitism, as well as other forms of religious, racial or ethnic hatred. This is so, I believe, because a legal system, and the underlying laws the system is designed to implement and oversee, serve two vital functions:

First, and most obviously, the laws by which a society chooses to govern itself, and the police power of the state that stands behind those laws, influence its citizens' behavior. In a very real and practical sense, laws designed to punish or penalize acts of anti-Semitism go a long way toward deterring acts of anti-Semitism. Jews and Jewish institutions are safer when prospective perpetrators of anti-Semitic acts are aware that they may suffer severe civil or criminal liability if they violate the law.

Second, and perhaps in a certain way even more importantly, laws have an educative function. They establish certain social norms, a code of moral right and wrong that helps shape attitudes. When the legal system makes it clear that anti-Semitism is beyond the pale of socially acceptable conduct, that message reverberates loudly and clearly throughout society.

I am deeply honored to represent the United States of America at this conference, and to speak on this particular topic at this session. The United States has distinguished itself in many ways in its uncompromising commitment to do battle against anti-Semitism in any of the many forms it may rear its ugly head. In particular, the laws of the United States – both at the federal level and in the various states – have played a major role in carrying out the dual function I described a moment ago: influencing both behavior and attitudes.

Hate crime legislation, including both penalty enhancement features and monitoring and reporting requirements, have been enacted in various forms by the United States Congress at the federal level and by 45 of the 50 states. Those laws invariably define a hate crime as including crimes motivated by religious hatred, including anti-Semitism. The sense of reassurance and security these laws provide, along with tangible signs of law enforcement

officials' commitment to their strict implementation, are particularly meaningful to religious Jews and religious Jewish institutions that have all too often served as easily identifiable targets for the anti-Semite.

Permit me to share a personal memory. In 1988, during the Jewish High Holy Day season, an arsonist set fire to the Brooklyn synagogue of which I am a member. I will never forget making my way to Sabbath services with my children only to be told that we would be praying elsewhere; our shul had been destroyed. I will never forget participating in the funeral procession for the six Torah scrolls that were burned in the fire – yes, we bury our holy books that are desecrated – and seeing the anguished horror on the faces of members of the previous generation, Holocaust survivors who thought that the days of synagogue destruction were long behind them. I often wonder whether that synagogue would still be standing, and those precious Torah scrolls still in active use, if an appropriate hate crime law would have been in effect at the time this crime was committed.

Aside from hate crime legislation, there are other types of laws that deter anti-Semitism and other forms of hatred, and convey to the broad public the essential message that such hatred is beyond the pale of social acceptability. These laws frequently take the form of a legal disability that is conferred upon an organization that would otherwise qualify for tax-exempt status and various other governmental benefits and privileges, but is disqualified from such benefits because it propounds intolerance or hate.

The fundamental principle underlying such laws in the United States was established by the U.S. Supreme Court in the famous *Bob Jones University v. United States*, 461 U.S. 574 (1983), which upheld a decision by the Internal Revenue Service to deny tax-exempt status to a university that had a racially discriminatory admissions policy. In so doing, the Supreme Court set forth the fundamental principle that “entitlement to tax exemption depends on meeting certain common law standards of charity – namely, that an institution seeking tax-exempt status must serve a public purpose and not be contrary to established public policy.” (461 U.S. at 587.)

This is not an inconsequential penalty by any means. Charitable groups that forfeit their tax-exempt status because they are seen as acting in a way that is “contrary to established public policy” are at a severe disadvantage in American society. Not only are the monies contributed to such organizations fully taxable under law, thereby encouraging donors to direct their charitable contributions elsewhere, various other forms of government benefits are withheld from organizations that do not meet the accepted definition of a legitimate public charity. Withholding these types of benefits is a powerful legal tool at the government's disposal to penalize anti-Semitic and other hate groups, and the United States has demonstrated how this tool can be effectively used.

I would like to suggest one final way by which legal systems can make a significant contribution toward combating anti-Semitism: by creating a legal environment in which Jewish families and institutions can thrive and help perpetuate the rich religious, academic and cultural traditions that have been the hallmark of the Jewish people since time immemorial.

I heard the following story from a senior rabbi in New York. When he was a young boy, he and his high school classmates at one of the first yeshivos established in the United States would utilize their lunch break to go to the corner candy store – the local hangout of the day –

and invite any Jewish boy they would find to visit the yeshiva and spend a few minutes learning the Hebrew alphabet or studying the Torah. These activities were coordinated by a man named Hillel Bishko. Mr. Bishko once explained why he started this program:

“When I was a young boy growing up in Russia, I once noticed a number of bruises on my grandfather’s body. I asked him what happened. He told me that he had been accosted by a Cossack, Ivan, who asked him three times: ‘*Du vest sich shmaden?* Will you convert?’ And when my grandfather refused, Ivan beat him up.

“I was so angry when I heard that. My *zaidy*, my grandfather? This Cossack had the *chutzpah*, the nerve, to start up with my grandfather? And I promised myself then and there that one day I would fight back.

“This program is the way I fight back. Every Jewish child we bring into the yeshiva, *a shmeis gegen die anti-Semiten*, a lash against the anti-Semites. Every letter of the Hebrew alphabet mastered, every verse of Torah, *noch a shmeis*, another lash.”

Distinguished delegates, my father, may he rest in peace, was beaten up by a Nazi in 1938 and suffered permanent damage in one of his eyes. I never knew any of my grandparents: three were exterminated by the Nazis, the fourth was murdered in the streets of Jerusalem in 1948. My uncles, my aunts, all perished. That is my personal family history, not terribly different than the family history of many Jews in this world today. So I also vowed to fight back.

And indeed I do – in the most meaningful way possible. I enroll my children in a Jewish school. I attend a synagogue and study Torah regularly. I live my life as a proud Jew. That is my response to those who harmed my family, who would farm the entire Jewish family. And for this I am deeply grateful to the United States, which through its system of law that protects and promotes the free exercise of religion, allows me to serve as a full-fledged member of American society without having to sacrifice one iota of my Jewish identity, faith or practice.

Governments around the world should take note. Law can and does make a difference. It helps the Jewish people rebuild its institutions, reconnect with its heritage, and achieve ultimate victory over all who would conspire to extinguish its eternal flame.

Thank you very much.